

CHAPTER 713

EQUAL EMPLOYMENT OPPORTUNITY

1. **POLICY.** It is the policy of Human Resources Office (HRO), Norfolk to ensure equal opportunity in employment, training, advancement and treatment of employees and applicants for employment, and to prohibit discrimination in employment because of race, color, religion, sex, national origin, age, disability and reprisal for prior equal employment opportunity (EEO) complaint involvement, and sexual orientation. This policy is based on statutes and Executive Orders which legislate these general concepts. 29 Code of Federal Regulations (CFR) Part 1614 provides a system for employees and applicants to have complaints of discrimination heard. Equal Employment Opportunity Commission (EEOC) and Department of the Navy (DON) regulations and directives contain specifics in terms of actions required.

a. It is the goal of the DON to complete processing of discrimination complaints promptly, impartially and in accordance with the time frames established in 29 CFR 1614. Resolution, which can occur at any stage of processing, is in the best interests of DON. Therefore, all reasonable efforts will be made to achieve early informal resolution of discrimination complaints at the lowest possible level.

b. The head of each activity will ensure that disciplinary or corrective action is considered when any supervisor or individual discriminates against a DON employee, former employee, or applicant. He/she will ensure that personnel management policies or practices which have an unlawful discriminatory impact on a protected group of employees, former employees, or applicants is modified to nullify such impact.

c. Complaints over matters outside the control of DON shall not be accepted for processing. The aggrieved employee, former employee, or applicant shall be advised to file such a complaint with the appropriate agency.

2. **ASSISTANCE.** Please refer to Chapter 001 of this Manual for the telephone number to call for additional information or further assistance relative to this Chapter.

3. **COVERAGE.** This instruction covers all DON appropriated and nonappropriated fund employees, former employees and applicants for employment with DON. Not covered are:

a. Local nationals employed outside the United States.

b. DON contractors, their employees, and applicants for employment with contractors.

c. Active duty military members.

4. **BACKGROUND.** Activities that have an Intraservice Support Agreement with the Director, HRO Norfolk are provided direct support of all EEO services via the Deputy Equal Employment

Opportunity Officer (DEEOO). The DEEOO is an employee of HRO Norfolk who reports directly to the Director/Deputy Director, HRO Norfolk, and has direct and unimpeded access to the Activity Head or his/her designee concerning any internal activity EEO problem.

5. RESPONSIBILITIES

a. The *Activity Head* of each activity employing civilian personnel is designated as the Equal Employment Opportunity Officer (EEOO). He/she is personally responsible for the effective execution of DON EEO policy, goals and objectives for all appropriated and nonappropriated fund employees, former employees and applicants, and the issuing of policies and statements emphasizing a personal commitment to the EEO program. The EEOO shall:

(1) Accept, dismiss, and/or settle discrimination complaints in coordination with the DEEOO and the Director, HRO Norfolk.

(2) Modify policies and practices found to have an unlawful discriminatory impact.

(3) Ensure that disciplinary and/or other administrative corrective action is considered when individuals are found to have unlawfully discriminated against employees, former employees, or applicants for DON employment.

b. The *DEEOO* is the principal program manager and technical advisor to the EEOO. Within the authority delegated by the EEOO, the DEEOO shall:

(1) Advise the EEOO on individual complaints of discrimination.

(2) Assess the knowledge and skill of each Equal Employment Specialist and certify that needed training has been completed prior to assigning him/her to counseling duties.

(3) Supervise counseling activities and serve as advisor and consultant to Equal Employment Specialists; and develop, coordinate, monitor and provide direction to the total EEO program.

(4) Work closely with appropriate members of management and management support staffs to achieve resolutions and settlement agreements, whenever feasible.

(5) Request the assignment of investigators to conduct formal discrimination complaint investigations.

(6) Ensure that all data on informal and formal complaints is entered into the Complaints Action Tracking System (CATS) as actions occur, and ensure that entries are timely, accurate, and complete.

c. The *Director, HRO Norfolk* shall:

(1) Manage and evaluate the discrimination complaints process at the activity level and advise the EEOO on matters that require attention.

(2) Advise the EEOO regarding the availability of adequate resources to effectively manage and implement the EEO program.

(3) Provide advice and guidance to employees, managers, and EEO officials which is consistent with EEO guidelines, and provide other appropriate staff support to the EEOO or his/her designee and the DEEOO.

(4) Ensure Equal Employment Specialists have a basic understanding of civilian personnel management procedures and the discrimination complaint process.

(5) Provide access to the Defense Civilian Personnel Data System (DCPDS) for CATS.

d. *Equal Employment Specialists.* Equal Employment Specialists are full-time employees who must meet the basic qualification requirements of the U.S. Office of Personnel Management for GS-0260 positions. Equal Employment Specialists shall:

(1) Advise employees, former employees, or applicants seeking counseling of their rights and responsibilities by issuing a Notice of Rights at the initial counseling session.

(2) Gather and analyze information relevant to the issue(s) of the complaint that support both the complainant's allegations and management's position concerning the issue(s) of alleged discrimination.

(3) Attempt to resolve allegations of discrimination at the informal complaint stage within 30 calendar days of the date the complainant brought the allegations to the Equal Employment Specialist's attention or any agreed upon extension, including presenting to the complainant any offers of settlement.

(4) Notify the complainant of his/her right to file a formal complaint by issuing a Notice of Final Interview.

(5) Complete the discrimination complaint checklist for timely input into CATS.

(6) Timely forward the Equal Employment Specialist's Report to the DEEOO upon notification that a formal complaint has been filed.

(7) Administratively manage each complaint from initiation through close out.

e. The *Human Resources Service Center East* is responsible for:

- (1) Processing class complaints.
- (2) Coordinating and executing special events and programs.
- (3) Preparing comprehensive Affirmative Employment Reports.
- (4) Securing vendors who provide Prevention of Sexual Harassment and other mandatory EEO training.

f. *Supervisors and Managers*, both civilian and military, who supervise civilian employees, are responsible for:

- (1) Ensuring that their actions are free from discrimination based on race, color, religion, sex, national origin, age, disability, or reprisal because of involvement with a discrimination complaint at any stage of the process or opposition to an unlawful discriminatory employment practice, or because of sexual orientation.
- (2) Taking action to ensure a workplace free from hostile, discriminatory, and offensive behavior, including sexual harassment, and taking immediate steps to correct such situations should they occur.
- (3) Monitoring employee conduct and taking corrective action as required.
- (4) Communicating discrimination complaint procedures to employees.
- (5) Cooperating with EEO program officials, specialists, investigators, and the designated agency representative, as required.
- (6) Seeking reasonable resolution of potential complaints during the counseling stage and cooperating with efforts to settle formal complaints.

g. *Employees* are responsible for:

- (1) Conducting themselves in a manner consistent with the principles of EEO and in a way which does not reflect adversely on DON.
- (2) Cooperating with EEO program officials, specialists, and investigators, as required.

h. *Complainants* are responsible for:

- (1) Complying with the established time limits and procedures specified by the EEO guidelines.

(2) Providing specific, detailed information necessary for counseling and processing of any formal complaint.

(3) Cooperating with EEO program officials, specialists, and investigators, as required.

6. **SETTLEMENT OF COMPLAINTS.** Adjustment of complaints by settlement agreement may occur at any stage of processing. Settlement is in the best interests of DON when the terms are practicable. Reasonable effort should be made to achieve early settlement of discrimination complaints at the lowest possible level. A settlement agreement resolving an allegation of discrimination under Title VII of the Civil Rights Act of 1964, as amended, or the Rehabilitation Act of 1973, as amended, may include an award of backpay, attorney fees, expert witness fees, or other appropriate relief. Attorney fees and expert witness fees are not provided for under the Age Discrimination in Employment Act of 1967 (ADEA) in the administrative process.

a. Interest on back pay shall be included in the back pay computation where sovereign immunity has been waived.

b. A finding of discrimination raises a presumption of entitlement to an award of attorney's fees. Any award of attorney's fees or costs shall be paid by the agency.

c. Attorney's fees are allowable only for the services of members of the Bar, law clerks, paralegals, and law students under the supervision of members of the Bar. No award is allowable for the services of any employee of the Federal government.

d. Attorney's fees shall be paid only for services performed after the filing of a written complaint and after the complainant has notified the agency that he/she is represented by an attorney. Written submissions to the agency that are signed by the representative shall be deemed to constitute notice of representation. Agencies are not required to pay attorney's fees for services performed during the precomplaint process except that fees are allowable for a reasonable period of time prior to the notification of representation for any services performed in reaching a determination to represent the complainant.

7. **REMEDIES.** The purpose of remedial action is to make whole an employee, former employee, or applicant who has been the victim of discrimination. Except in claims of age discrimination, the Civil Rights Act of 1991 provides for payment of compensatory damages. Punitive damages are not available nor can the complainant require that adverse action be taken against employees or supervisors as a remedy for a complaint. Appropriate remedies for prohibited discrimination include, but are not limited to:

a. The posting of a notice to all employees advising them of their right to be free of unlawful discrimination and assuring them that discrimination will not recur.

- b. Restoration of benefits, such as assignment to missed training and development opportunities.
- c. Placement, if feasible, in the position which was the subject of the finding of discrimination or placement in a substantially equivalent position. Displacing other employees should be avoided where it is possible to do so.
- d. Backpay.
- e. Terminating the discriminatory practice or policy.
- f. Cancellation of an unwarranted personnel action and expunction of records reflecting unwarranted personnel actions.
- g. Reinstatement.

8. REASONABLE AMOUNT OF OFFICIAL TIME

- a. Meetings with complainants shall be scheduled during the complainant's normal duty hours to the extent practicable. If the complainant is an employee of DON and is in an official duty status, he/she shall have a reasonable amount of official time (to be determined by the EEOO of the employing activity) to prepare and present the complaint and to meet with the Equal Employment Specialist.
- b. An EEOO is not obligated to change work schedules, incur overtime wages, or pay travel expenses to facilitate the choice of a specific representative, or to allow the complainant and the representative to confer. EEOO's are not required to grant official time to DON employees to prepare or present complaints against other Federal agencies. If a complainant's request for official time off is denied, the reason(s) shall be documented by the EEOO and made a part of the complaint file.
- c. The complainant and representative, if employed by DON and otherwise in a pay status, shall be on official time regardless of their tour of duty when their presence is authorized or required by DON or EEOC during the investigation, at meetings, or for the hearing on the complaint. If a meeting or the hearing is scheduled outside a complainant's or representative's normal working hours, the EEOO may choose to rearrange the complainant's working hours to coincide with the meeting or hearing, grant compensatory time, or authorize overtime to allow attendance of the complainant and/or representative at the meeting or hearing in a duty status.
- d. "Reasonable" is defined as whatever is appropriate, under the particular circumstances of the complaint, in order to allow a complete presentation of the relevant information associated with the complaint and to respond to requests for information.

The actual number of hours to which the complainant and his/her representative are entitled will vary, depending on the nature and complexity of the complaint. The complainant/representative and the

activity should arrive at a mutual understanding as to the amount of official time to be used prior to the complainant's and/or representative's use of such time.

Whenever the presence of a complainant and/or his/her representative is required by a DON or an EEOC official in connection with an investigation or hearing on the complaint, both the complainant and the representative are to be granted official time for the duration of such meetings or hearings and are in a duty status regardless of their tour of duty. Complainants and their representatives generally have no control over the length of the meetings and hearings; therefore, whatever time is spent in such meetings and hearings is automatically deemed reasonable.

e. DON witnesses requested by an EEOC Administrative Judge will be made available unless administratively impracticable. The fact that a witness has moved does not make it administratively impracticable for the witness to attend the hearing. Regardless of their tour of duty, such witnesses shall be in an official duty status during the period of time they are made available to testify.

9. BASES ON WHICH DISCRIMINATION IS PROHIBITED

a. Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination based on race, color, religion, sex or national origin in all terms and conditions of employment. It also prohibits reprisal or retaliation for participating in the discrimination complaint process or for opposing any unlawful employment practice under Title VII.

b. Sexual harassment is considered to be a form of sex discrimination under Title VII of the Civil Rights Act, as amended. The basis for this determination is that actions directed toward an individual for reasons having to do with his/her sex would fall within the definition of disparate treatment based upon sex.

Sexual harassment is defined as deliberate or repeated unsolicited and unwelcome verbal comments, gestures or physical conduct of a sexual nature in a work or work-related environment. Sexual harassment is prohibitive and unacceptable conduct at the managerial, supervisory or employee levels and will not be condoned or tolerated in any form.

This prohibition applies to all civilian and military managers, supervisors and co-workers.

c. The ADEA, as amended, protects applicants and employees in the Federal government who are at least 40 years of age or older in such matters as hiring, discharge, compensation and other terms, conditions and privileges of employment. Unlike Title VII and the Rehabilitation Act, the ADEA allows persons claiming age discrimination to go directly to court without going through an agency's administrative complaint procedure.

d. The Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of mental and physical handicaps. It establishes the authority and responsibility for enforcement of equal employment opportunities for individuals with a handicapping condition. It requires that agencies shall make

reasonable accommodations to the known physical or mental limitations of a qualified handicapped applicant or employee unless the agency can demonstrate that the accommodations would impose an undue hardship on the operation of its program. (Congress amended the Rehabilitation Act of 1973 in October 1992 to provide that the standards used to determine whether non-affirmative action employment discrimination has occurred shall be the standards applied under Title I of the Americans with Disabilities Act.)

e. Executive Order (EO) 11478, as amended by EO 13087, prohibits discrimination based on sexual orientation in federal employment and adds sexual orientation to the list of categories for which discrimination is prohibited. Sexual orientation means homosexuality, bisexuality, or heterosexuality. Because Title VII of the Civil Rights Act of 1964, as amended, does not prohibit discrimination based on sexual orientation, employees may not seek relief from the EEOC or file a discrimination complaint. If an employee believes that a prohibited personnel practice has been committed against them that constitutes discrimination based on sexual orientation, assistance may be sought from the Merit Systems Protection Board, the Office of Special Counsel, the applicable Negotiated Grievance Procedure and/or the Administrative Grievance Procedure. Under some circumstances, more than one procedure may be available, and the choice of one procedure may preclude the use of others.

10. DISCRIMINATION COMPLAINTS PROCEDURE

a. An employee, former employee, or applicant for employment who believes that he/she has been discriminated against because of race, color, religion, sex, age, national origin, disability or reprisal must consult with an Equal Employment Specialist within 45 calendar days of the date of the alleged discriminatory act, the alleged discriminatory personnel action, or the date that the complainant knew or reasonably should have known that the alleged discriminatory act occurred. (A formal complaint filed before the individual has attempted to consult with an Equal Employment Specialist shall be returned without action at that time, and the individual will be advised to consult with an Equal Employment Specialist in order to properly initiate consideration of his/her concerns.)

b. EEO counseling and Alternative Dispute Resolution (ADR) are essential parts of the Federal system for processing and resolving employee and applicant EEO concerns. The opportunity for informal resolution at an early stage is an important feature of these processes. The nature and thoroughness of these processes affects the entire processing of the complaint. It is imperative that, regardless of which process is followed, all parties cooperate fully in exploring all possible resolution options.

c. The procedures for processing individual complaints of discrimination are as follows:

Informal

(1) Complainant contacts an Equal Employment Specialist within 45 calendar days of the date of the alleged discriminatory act, the alleged discriminatory personnel action, or the date that the complainant knew or reasonably should have known that the alleged discriminatory act occurred.

(2) At the initial counseling session, Equal Employment Specialists must advise individuals in writing of their rights and responsibilities. The agency's ADR program will also be explained. The complainant will be advised that if the agency offers ADR in the particular case, the complainant will have to exercise an election option and decide whether to seek precomplaint resolution through the ADR process or through traditional EEO counseling. The complainant's election to proceed through ADR or counseling is final. (Further information about ADR is found in paragraph 11 of this Chapter.)

(3) If the final counseling interview with the complainant is not completed within 30 calendar days of the date the complainant brought the matter to the Equal Employment Specialist's attention and no extension has been granted, or after 90 calendar days if ADR was offered and elected, and if the matter has not been resolved, the complainant shall be informed in writing by the Equal Employment Specialist, not later than the thirtieth day after contacting the Specialist, of the right to file a written discrimination complaint within 15 calendar days of receipt of the notice.

Formal

(1) The complainant may file a written formal complaint within 15 calendar days of receipt of the final interview notice. A complaint is deemed timely if it is delivered in person or postmarked before the expiration of the filing period.

(a) A complaint must contain a signed statement from the complainant or the complainant's attorney.

(b) The statement must be sufficiently precise to identify the complainant and the activity and to describe the actions or practices that form the basis of the complaint.

(c) The complainant must notify the Equal Employment Specialist immediately, in writing, of any changes in mailing address or telephone number, and whether a representative has been retained.

(2) Immediately upon receipt of a formal complaint of discrimination, the DEEOO will acknowledge receipt of the complaint in writing.

(3) If a complaint is dismissed in total, the complainant may appeal the dismissal to EEOC.

(4) Upon acceptance or partial acceptance of a formal written complaint by the DEEOO or his/her designee, an investigator from the Department of Defense (DoD) Civilian Personnel Management Service, Office of Complaint Investigations (OCI) is requested. A complainant may amend a complaint at any time prior to the conclusion of the investigation to include issues like or related to those raised in the complaint. Once the investigation is conducted, OCI will forward the original and two copies of the investigative file to HRO Norfolk. HRO Norfolk will provide the complainant with a copy of the investigative file and a notice of his/her right to request, within 30 calendar days of his/her receipt of the

investigative file, a final agency decision, without a hearing, or a final decision by an Administrative Judge (AJ) of the EEOC with final action by the agency.

(5) If the complaint is not settled, and the complainant has requested a final agency decision without a hearing, the DEEOO will forward a copy of the case file, within one business day, directly to the Naval Complaints Administration and Review Division (NAVCARD).

If no request is received within 35 calendar days of receipt of the investigative file, the DEEOO will forward a copy of the case file on the 36th day, by overnight mail, to NAVCARD.

(a) NAVCARD will issue a final agency decision on the merits of each accepted and dismissed issue in the complaint based on the evidence presented in the record.

(b) NAVCARD shall provide the written SECNAV decision to the complainant or, if represented by counsel, to the complainant's attorney.

(6) If the complainant wishes a decision from an AJ with a hearing, he/she must submit a written request for a hearing directly to the applicable EEOC District Office, with a copy to the DEEOO. The DEEOO shall then forward the case file to the cognizant EEOC District Office. After requesting a hearing, a complainant may file a motion with the AJ to amend a complaint to include issues or claims like or related to those raised in the complaint.

(a) The AJ reviews the file, and schedules and conducts the hearing, unless he/she determines to dismiss the complaint or to issue a decision based on the record. The AJ will also review issues which were not accepted for investigation by the agency to determine if they have been properly adjudicated.

(b) Unless the AJ requires that a party request authorization to commence discovery, parties may begin discovery upon receipt of the AJ's acknowledgement order. If the AJ requires that a party request authorization to commence discovery, the request must state the method(s) and scope of discovery and its relevance to the issue(s) in the complaint. The parties must, within 20 calendar days or such period of time ordered by the AJ, exchange requests for discovery. The parties must cooperate with each other in honoring requests for relevant, nonrepetitive documentary and testimonial evidence. Discovery disputes will be resolved by the AJ after the parties have made good faith effort to resolve the dispute.

(c) The DEEOO shall procure the services of a qualified court reporter and an original and two copies of the hearing transcript. Agency employees may not be used to transcribe hearings, unless specifically authorized by EEOC.

(d) The hearing is recorded and transcribed verbatim. The AJ shall issue findings of fact and conclusions of law on the merits of the complaint, and shall order appropriate relief where discrimination is found with regard to the matter that gave rise to the complaint.

(e) After a decision is issued by the AJ, NAVCARD must issue a final order within 40 days of the AJ's decision, or the decision of the AJ automatically becomes the final action of the agency. NAVCARD's final order shall notify the complainant whether or not the agency will fully implement the decision of the AJ and shall contain notice of the complainant's right to appeal to the EEOC or file a civil action in federal district court. If the final order does not fully implement the decision of the AJ, then NAVCARD shall simultaneously file an appeal to EEOC.

(8) When discrimination is found, the SECNAV decision shall advise the complainant and/or representative that any request for attorney fees or costs must be documented and submitted to the activity within 30 calendar days of receipt of the decision.

(9) A complainant may elect to file an individual complaint of discrimination based on age under one of the following:

(a) file under the administrative discrimination complaint process outlined above.

(b) file with the EEOC a written notice of intent to file a civil action within 180 calendar days of the date the alleged discrimination occurred, and wait at least 30 calendar days after filing the notice with the EEOC before filing a civil action in U.S. District Court. The notice of intent to sue under the ADEA must be filed with the EEOC at the following address:

Equal Employment Opportunity Commission
Office of Federal Operations
Attn: Hearing Programs Division
1801 L Street, NW
Washington, DC 20507

(c) file a civil action in a U.S. District Court within 90 calendar days of the date of a final agency decision from or final action by SECNAV or of an EEOC decision on an appeal.

11. ALTERNATIVE DISPUTE RESOLUTION

a. Where the agency agrees to offer Alternative Dispute Resolution (ADR) in a particular case, a complainant may choose between participation in the ADR program or traditional counseling activities. If the complainant opts to participate in ADR, a 90-day counseling period is authorized under 29 CFR 1614.

b. Four methods of ADR are offered: Mediation, Conciliation, Early Neutral Inquiry, and Settlement Conference.

(1) *Mediation.* The mediation process is confidential and no written record is maintained of the discussions which occur during mediation. When a formal agreement is reached, it is reduced to

writing. If no agreement is reached, the contents of the mediation session will not be reported, except that mediation was attempted.

(2) *Conciliation.* The conciliation process is not confidential. The neutral does not make a decision. When a formal agreement is reached, it is reduced to writing. If no formal agreement is reached, a written record will be submitted which includes the strengths and/or weakness of the dispute.

(3) *Early Neutral Inquiry.* Early Neutral Inquiry is an informal, mostly oral inquiry with some documentation and evidence. The neutral makes recommendations regarding possible resolution. The neutral will provide a written non-binding evaluation of the facts in dispute after reviewing statements and relevant documentation regarding the matter in dispute.

(4) *Settlement Conference.* Settlement Conference is the most formal of the ADR processes. This process is used when there is a lot of documentation which needs to be reviewed or when legal issues need to be decided. Usually attorneys are present and technical documents are reviewed.

12. ADDITIONAL RIGHTS IN CLAIMS OF SEXUAL HARASSMENT. Title 10 Section 1561 of the U.S. Code deals with investigation of complaints of sexual harassment by a Commanding Officer (CO)/Officer in Charge (OIC). Title 10 Section 1561 requires that if an employee notifies a CO/OIC or his/her designee of a sexual harassment allegation, the CO or OIC of that command will, within 72 hours after receipt of the complaint, forward the complaint to the next superior officer in the chain of command who is authorized to convene a general court-martial as well as commence, or cause the commencement of, an investigation of the complaint, advising the complainant that an investigation has begun. To the extent practicable, the investigation should be completed not later than 14 days after the date on which the investigation is commenced. A final report on the results of the investigation, including any action taken as a result of the investigation, should be submitted to the next superior officer in the chain of command within 20 days after the date on which the investigation is commenced. If the investigation is not completed within this timeframe, a progress report must be submitted within 20 days after the date on which the investigation was commenced and continue to be submitted every 14 days thereafter until a final report is provided. Within six days of the receipt of the findings by the CO/OIC, the complainant must be notified in writing of the findings of the investigation, and be notified of the decision on the substantiation of the allegations as well as the decision on corrective actions taken or proposed. An employee may pursue an allegation of sexual harassment under Title 10 Section 1561 procedures as well as 29 CFR 1614 procedures. If an employee raises an allegation of sexual harassment in a meeting with an Equal Employment Specialist, the employee will be advised his/her rights under Title 10 Section 1561.

13. OPTIONS TO INCREASE EQUAL EMPLOYMENT OPPORTUNITIES. There are numerous recruiting and staffing programs available to assist supervisors and managers in staffing their organizations and to increase the representation of minorities, women, and disabled persons. The following programs are only a portion of the programs available in DON; the HRO Norfolk Staffing Advisor can provide additional information on these programs.

a. *Student Career Experience Program (SCEP)*. The SCEP provides academic preparation and career-related work experience to students in a variety of education and training programs at all educational levels from high school through graduate level. SCEP students are eligible for noncompetitive conversion to the competitive service upon completion of program requirements.

b. *Employment of the Physically Handicapped*. For the purpose of Federal employment a physically handicapped person is defined as one who: (1) has a physical impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment.

c. *Employment of the Mentally Restored*. A mentally restored person is one who has experienced some mental or emotional difficulty, has received professional treatment either in or outside of an institution, and has been judged by competent medical authority as ready to assume normal activities, including employment.

d. *Employment of the Mentally Retarded*. Mental retardation is a chronic and lifelong condition. In most cases, it is an improvable handicap, involving a limited but nonetheless existing ability to learn, to be educated, and to be trained through special education, rehabilitation and proper care. It is not a disease, nor a total absence of skill or aptitude, nor a sure case for institutionalization. It is a mental impairment which may range from mild to profound. The majority of those afflicted are capable of useful employment.

Individuals covered by (b) through (d) are certified by the state's Department of Rehabilitative Services or by the Veteran's Administration. When the individual is selected for employment, he/she can be placed on a 700 hour appointment. Once the person has demonstrated that he/she is capable of fulfilling the physical requirements of the position, he/she may be converted to a temporary (not-to-exceed one year) or a permanent appointment.

e. *Part-Time Career Employment Program*. The Part-Time Career Employment Act (Public Law 95-437) was established to provide a variety of flexible and creative staffing options to managers and supervisors. Part-time employment, including job sharing, provides managers with more flexibility in scheduling, especially during periods of leave and training, and a wider recruitment base of highly qualified and motivated candidates.

f. *Student Temporary Employment Program (STEP)*. This program provides students with temporary employment to enable them to earn a salary while continuing their studies and gain exposure to public service. Students may work full time or part time schedules and there are no limitations on the number of hours a student may work per week. Students are not eligible for conversion to a career or career-conditional appointment under this authority.

g. *Upward Mobility*. The Upward Mobility Program is designed to provide a variety of approaches for movement of underutilized, high potential employees into careers more suitable to their talents, abilities, and interests. The program entails use of the OPM-approved DON-wide Training

Agreement targeted toward employees who do not meet qualification requirements for the first rung of a career ladder. Once selected, an employee may be reassigned, detailed or changed to lower grade, but not promoted into an Upward Mobility position. The only exception is a wage grade employee selected for a General Schedule position. Recruitment for an Upward Mobility position is through standard Merit Promotion procedures.